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DEPARTMENT FOR IO/S - ABRAHAMS/JACOBSON, L - BETTAUER,  
L/UNA - KIINGI

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TAGS: [ABUD](#) [AFIN](#) [AORC](#) [IBPCA](#)

SUBJECT: PCA: REQUEST FOR GUIDANCE FOR ADMINISTRATIVE  
COUNCIL MEETING

1. (U) Summary: The Administrative Council of the Permanent Court of Arbitration (PCA) will be holding its Spring Meeting on Monday, April 19. Embassy legal officer will represent the USG at the Council meeting and seeks guidance from the Department with respect to a proposal of the PCA Secretary General to deal with the problem of chronic nonpayment of assessed contributions. End summary.

2. (U) On April 19, the PCA's Administrative Council will hold its annual Spring Meeting. The Agenda includes a variety of financial and administrative matters (agenda and related package/resolution faxed to IO/S - Jacobson and L/UNA - Kiingi). Embassy expects that the Secretary General, Tjaco van den Hout, will emphasize the deteriorating financial situation of the PCA, notwithstanding the budgetary increase approved by the Council last year. Van den Hout attributes the budgetary shortfall "mainly to the weakening US dollar and its related impact on income from registry services," as a result of which the PCA has instituted a number of "austerity measures." The Council meeting will also consider a proposal of the Council President to renew Van den Hout's mandate for a period of five years. Given Van den Hout's strong support of and sensitivity toward USG equities in the PCA, Embassy representative expects to join a consensus in favor of his renewed mandate.

3. (U) The fifth agenda item for the Council meeting addresses the issue of chronic failure of some PCA Member States to make their assessed contributions. According to a report of the Secretary General, "some 15 percent of the organization's regular budget is not realized in contributions received during the financial year in which they come due, leaving the regular budget chronically under-funded. Moreover," the report continues, "several Member States have arrears of more than three years, and the amount overdue from previous years of more than 90,000 Euros in total represents a significant sum for an organization the size of the PCA." The PCA considered but rejected various options undertaken by other international organizations in similar positions, including the imposition of interest on unpaid dues. Instead, and more modestly, the PCA is proposing that the Council adopt a resolution that would do the following: (1) ask the States in arrears to pay owed monies on an urgent basis; (2) request the Council President to contact governments of Member States that have not paid contributions for seven years or more whether they wish to remain parties to the relevant Hague Conventions; (3) adopt a Regulation that would require Member States in two years or more arrears to conclude an amortization schedule with the PCA; and (4) should the Member fail to agree to such an amortization, it would lose the right to nominate and maintain Members of the Court and specialized panels or to apply for access to the PCA financial assistance fund. Such "sanctions" could be waived by the Council under certain conditions.

4. (U) Guidance request: Embassy believes that the PCA draft resolution makes sense as a modest effort to encourage Member States in substantial arrears to begin the process of making contributions. While it is by no means assured that such a step will in fact result in better payment of assessed contributions, the PCA's difficult financial situation demands some effort in that direction. Indeed, an even stronger response to chronic nonpayment may be warranted. Embassy therefore requests Department concurrence in its intention to join the consensus in favor of the subject resolution. End guidance request.

SOBEL